IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.10286 of 1999

Dated: 11-04-2007

Between:

1. Kannubhai Parikh, s/o Sri Shantilal and another.

... Petitioners

and

1. The State of Andhra Pradesh, rep. by
   Chief Controlling Revenue Authority -cum-Commissioner
   & Inspector General of Registration & Stamps,
   Hyderabad and 2 others.

... Respondents

ORDER:

Heard learned counsel for the parties.

2. Petitioners state that they purchased the land in an extent of Ac.0-28 gts. in Sy.No.849 (part) situated at Medchal village and Mandal, Rangareddy District from its erstwhile owner M/s. Rudra Blocks pvt. Ltd., represented by its Director R. Ramanaiah, for a total

consideration of Rs.4.95 lakhs under a registered sale deed dated 30-01-1996. The sale deed executed in favour of them was initially kept pending, under Pending Document No.86/96 and later after due verification of stamp duty and registration fee, the same was duly registered as document No.738/96. Three months thereafter i.e. on 23-03-1996, the Flying Squad Zone VI of second respondent have conducted a super check and assessed the valuation of their property afresh by treating the said agricultural land and industrial land and also by treating the additions to the shed made by them as 'pre-existing constructions', demanded deficit stamp duty of Rs.97,735/- and deficit registration fee of Rs.4,445/- totalling to Rs.1,02,180/-. They were given a show cause notice dated 03-06-1996, for which they gave a reply disputing the same. The second respondent – Deputy Collector vide proceedings bearing No.46/1/FS/96, dated
26-08-1996 passed an order confirming the notice by ignoring the explanation filed by them. Against the said order, they filed appeal before first respondent - Commissioner and first respondent vide proceedings bearing No.U3/844/96, dated 27-11-1996 stayed the operation of the order of second respondent. While so, third respondent – Sub Inspector of Police initiated proceedings on the basis of the order of second respondent on the ground that second respondent filed a complaint for prosecution against them under Section 64 of the Indian Stamp Act. Thereupon, they got issued legal notice dated 05-07-1997 to third respondent informing that as the entire proceedings of second respondent have been stayed and pending hearing of the appeal before first respondent, no further action need be taken. The first respondent after hearing arguments dismissed the appeal vide impugned order dated
17-04-1999. Assailing the said order, they approached this Court and

filed the present writ petition seeking a *mandamus* to declare the impugned order of first respondent bearing No.CCRA.1/20151/98 dated 17-04-1999 confirming the orders of second respondent vide proceedings No.46/1/FS/96 dated 26-08-1996, as illegal and arbitrary.

3. A detailed counter affidavit is filed on behalf of respondent Nos.1 and 2, for which a reply affidavit is also filed on behalf of petitioners.

4. Along with the said reply affidavit learned counsel also filed some certified copies and requested this Court to treat them as additional material papers. Evidently, the said certified copies are not produced before the original authority, who decided the matter, and the said material papers were not there before the authority, who passed the orders adverse to the interests of petitioners. On that score, the matter has to be remanded to the original authority, but having regard to the fact that petitioners must have paid the deficit court fee by now, this Court is not inclined to remand the matter for fresh consideration.

5. Having heard learned counsel at length and upon perusing the relevant provision of law this court is of the view that the presentation of the document for registration must have been done due to inadvertence and it cannot be said that it was intentional. For that reason and also for the reason that deficit stamp duty levied is paid this Court is of the view that respondents need not proceed further by way of launching of prosecution. Accordingly, this Court is of the view that the writ petition can be disposed of holding that petitioners have no deceitful intention at the time when the document was presented for registration.

6. Accordingly, the writ petition is disposed of directing

respondents not to proceed further by way of launching of prosecution against petitioners. If for any reason, the stamp duty is not paid, petitioners are directed to pay the deficit stamp duty that was levied by the authorities within a period of four weeks from the date of receipt of a copy of this order. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.11-04-2007
GLV